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[Report No. 106–396]

To revise the laws of the United States appertaining to United States cruise vessels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 9, 1999

Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mr. MURKOWSKI, Mr. BURNS, Mr. THURMOND, Mr. COVERDELL, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 6, 2000

Reported by Mr. MCCAIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To revise the laws of the United States appertaining to
United States cruise vessels, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the
“United States Cruise Ship Tourism Development Act of
1999”.

3 “United States Cruise Ship Tourism Development Act of
4 1999”.

4 1999''.

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

6 ~~this Act is as follows:~~

Sec. 1. Short title; table of sections.

~~Sec. 2. Definitions.~~

~~Title I—Operations Under Permit~~

See. 101. Domestic cruise vessel.

~~Sec. 102. Domestic itinerary operating requirements.~~

~~Sec. 103. Certain operations prohibited.~~

Sec. 104. Limited employment of eligible cruise vessels in the coastwise trade of the United States.

of the United States.

Sec. 105. Priorities within domestic markets.

~~Sec. 106. Construction standards.~~

Title H—Post-Permit Operations of Eligible Cruise Vessels

~~Sec. 201. Continued operation in domestic itinerary requirements.~~

~~Title III—Other Provisions~~

Sec. 301. Amendment of title XI of the Merchant Marine Act, 1936

~~Sec. 302. Application with Jones Act and other Acts.~~

~~Sec. 302. Glacier Bay and other National Park Service area permits.~~

7 SEC. 2. DEFINITIONS.

8 ~~In this Act:~~

(1) **ELIGIBLE CRUISE VESSEL.**—The term “eligible cruise vessel” means a cruise vessel that—

10 gible cruise vessel” means a cruise vessel that—

(A) is documented under the laws of the United States or the laws of another country;

12 United States or the laws of another country;

(B) is not otherwise qualified to engage in the eastwise trade between ports in the United States;

the coastwise trade between ports in the United States;

15 ~~States;~~

16 ~~(C) was delivered after January 1, 1980;~~

(D) provides a full range of overnight accommodations, entertainment, dining, and other services for its passengers;

(E) has a fixed smoke detection and sprinkler system installed throughout the accommodation and service spaces, or will have such a system installed within the time period required by the 1992 Amendments to the Safety of Life at Sea Convention of 1974; and

(F) displaces—

(i) greater than 20,000 gross registered tons; or

(ii) more than 9,000 gross registered tons and has an all-suites luxury configuration with a minimum of 240 square feet per revenue room.

(2) ITINERARY.—The term “itinerary” means the route travelled by a cruise vessel on a single voyage that begins at the first port of embarkation for passengers on that voyage, includes each port at which the vessel docks before the last port of disembarkation for such passengers, and ends at that last port of disembarkation.

1 ~~(3) OPERATING DAY.—~~The term “operating
2 day” means a day of the week on which a vessel em-
3 barks, transports, or disembarks passengers.

4 ~~(4) OPERATOR.—~~The term “operator” means
5 the owner, operator, or charterer.

6 ~~(5) SECRETARY.—~~The term “Secretary” means
7 the Secretary of Transportation.

8 ~~(6) UNITED STATES-FLAG VESSEL.—~~The term
9 “United States-flag vessel” means a vessel docu-
10 mented under subsection (a) or (d) of section 12102
11 of title 46, United States Code.

12 **TITLE I—OPERATIONS UNDER** 13 **PERMIT**

14 **SEC. 101. DOMESTIC CRUISE VESSEL.**

15 ~~(a) IN GENERAL.—~~Notwithstanding the provisions of
16 section 8 of the Act of June 19, 1886 (46 U.S.C. App.
17 289), or any other provision of law, the Secretary may
18 issue a permit for an eligible cruise vessel to operate in
19 domestic itineraries in the transportation of passengers in
20 the coastwise trade between ports in the United States.

21 ~~(b) MAXIMUM OPERATING DAYS.—~~An eligible cruise
22 vessel not documented under the laws of the United States
23 that is operated under a permit issued by the Secretary
24 under subsection (a) may not be operated under that per-
25 mit for more than 200 operating days.

1 (c) EXPIRATION OF PERMIT AUTHORITY.—Except as
 2 otherwise provided in section 201 of this Act, a permit
 3 issued by the Secretary under subsection (a) shall termi-
 4 nate December 31, 2006.

5 (d) OPERATING WINDOW.—The authority of the Sec-
 6 retary to issue a permit under subsection (a) begins on
 7 the day after the date of enactment of this Act and termi-
 8 nates on the day that is 3 years after that date.

9 **SEC. 102. DOMESTIC ITINERARY OPERATING REQUIRE-**
 10 **MENTS.**

11 (a) IN GENERAL.—Except as provided in section 104
 12 of this Act, the Secretary may not approve an itinerary
 13 for a voyage commencing less than 1 year after the date
 14 of enactment of this Act requested by an eligible cruise
 15 vessel that is not documented under the laws of the United
 16 States.

17 (b) REGULATORY REQUIREMENTS.—The Secretary
 18 may not issue a permit under section 101(a) for an eligible
 19 cruise vessel not documented under the laws of the United
 20 States unless the operator establishes to the satisfaction
 21 of the Secretary that, except as otherwise provided in this
 22 Act, the vessel will be operated in full compliance with all
 23 rules, regulations, and operating requirements relating to
 24 health, safety, environmental protection and other appro-
 25 priate operational standards (as determined by the Sec-

1 retary); that would apply to any United States-flag cruise
2 vessel operating in domestic itineraries in the transpor-
3 tation of passengers under a permit issued under section
4 101(a). The Secretary shall issue final rules under this
5 section within 180 days after the date of enactment of
6 this Act.

7 (c) REPAIRS.—

8 (1) IN GENERAL.—The Secretary may not issue
9 a permit under section 101(a) for an eligible cruise
10 vessel unless the operator establishes to the satisfac-
11 tion of the Secretary that—

12 (A) any repair, maintenance, alteration, or
13 other preparation of the vessel for operation
14 under a permit issued under section 101(a) has
15 been, or will be, performed in a United States
16 shipyard; and

17 (B) any repair or maintenance of the ves-
18 sel after a permit is issued under that section
19 and before the expiration of the operating limi-
20 tation period in section 101(b) will be per-
21 formed in a United States shipyard.

22 (2) WAIVER.—The Secretary may waive the re-
23 quirements of paragraph (1) if the Secretary finds
24 that the repair, maintenance, alterations, or other
25 preparation services are not available in the United

1 States or if an emergency dictates that the ship pro-
 2 ceed to a foreign port.

3 ~~(d) ESCROW ACCOUNT.—~~The Secretary may not
 4 issue a permit under section ~~101(a)~~ for an eligible cruise
 5 vessel unless the operator agrees to deposit \$5 for each
 6 passenger embarking on that vessel while operating under
 7 the permit into the escrow fund established under section
 8 1108 of the Merchant Marine Act, 1936 (46 U.S.C. App.
 9 ~~1270a~~).

10 ~~(e) COMPLIANCE.—~~If the Secretary determines that
 11 an eligible cruise vessel is not in compliance with any com-
 12 mitment made to the Secretary by its operator under this
 13 Act, the permit issued for that vessel under section ~~101(a)~~
 14 shall be null and void.

15 **SEC. 103. CERTAIN OPERATIONS PROHIBITED.**

16 An eligible cruise vessel operating in domestic
 17 itineraries under a permit issued under section ~~101(a)~~
 18 may not—

19 ~~(1)~~ operate as a ferry;

20 ~~(2)~~ regularly carry for hire both passengers and
 21 vehicles or other cargo; or

22 ~~(3)~~ operate between or among the islands of
 23 Hawaii.

1 **SEC. 104. LIMITED EMPLOYMENT OF FOREIGN-FLAG**
 2 **CRUISE SHIPS IN THE COASTWISE TRADE OF**
 3 **THE UNITED STATES.**

4 (a) IN GENERAL.—Notwithstanding section 12106 of
 5 title 46, United States Code, section 27 of the Merchant
 6 Marine Act, 1920 (46 U.S.C. App. 883), and section 8
 7 of the Act of June 19, 1886 (46 U.S.C. App. 289), the
 8 Secretary may approve the employment in the coastwise
 9 trade of the United States of an eligible cruise vessel oper-
 10 ating under a permit issued under section 101(a) of this
 11 Act for repositioning as provided by under subsection (b)
 12 or for charter as provided by subsection (c).

13 (b) REPOSITIONING.—An eligible cruise vessel not
 14 documented under the laws of the United States operating
 15 under a permit issued under section 101(a) of this Act
 16 may be employed in the coastwise trade during the first
 17 year after the date of enactment of this Act for not more
 18 than 2 voyages, the coastwise trade portion of which does
 19 not exceed 2 weeks and includes transportation of pas-
 20 sengers for hire—

21 (1) from one coast of the United States through
 22 the Panama Canal to another coast of the United
 23 States; or

24 (2) along one coast of the United States during
 25 a voyage between 2 foreign countries.

1 (c) CHARTERS.—An eligible cruise vessel not docu-
 2 mented under the laws of the United States operating
 3 under a permit issued under section 101(a) of this Act
 4 may be employed in the coastwise trade during the first
 5 year after the date of enactment of this Act if it is time-
 6 chartered to a charterer that—

7 (1) does not own or operate a cruise ship; and
 8 (2) is not affiliated with an owner or operator
 9 of a cruise ship.

10 (d) PRIORITIES.—Section 105 applies to vessels em-
 11 ployed in the coastwise trade under this section.

12 **SEC. 105. PRIORITIES WITHIN DOMESTIC MARKETS.**

13 (a) IN GENERAL.—The Secretary shall, by regula-
 14 tion, establish a priority system for cruise vessels pro-
 15 viding passenger service in domestic itineraries within 180
 16 days after the date of enactment of this Act.

17 (b) PRIORITY TO U.S.-BUILT OR U.S.-REBUILT VES-
 18 SELS.—Under the regulations to be prescribed by the Sec-
 19 retary, a cruise vessel built or rebuilt in the United States
 20 and documented under the laws of the United States shall
 21 have priority over any other cruise vessel of comparable
 22 size operating in a comparable market under a permit
 23 issued under section 101(a).

24 (c) PRIORITY TO U.S.-FLAG VESSELS.—The Sec-
 25 retary shall prescribe regulations under which a cruise ves-

1 sel documented under the laws of the United States that
 2 is not built or rebuilt in the United States has priority
 3 over an eligible cruise vessel of comparable size not docu-
 4 mented under the laws of the United States that is oper-
 5 ating in a comparable market.

6 (d) FACTORS CONSIDERED.—In determining and as-
 7 signing priorities under the regulations, the Secretary
 8 shall consider, among other factors determined by the Sec-
 9 retary to be appropriate—

10 (A) the scope of a vessel's itinerary;

11 (B) the time frame within which the vessel
 12 will serve a particular itinerary; and

13 (C) the size of the vessel.

14 (e) IMPLEMENTATION.—

15 (1) ITINERARY SUBMISSION REQUIRED.—An
 16 eligible cruise vessel may not be operated in a do-
 17 mestic itinerary unless the operator has submitted a
 18 proposed itinerary for that vessel, in accordance with
 19 this subsection, for cruise itineraries for the calendar
 20 year beginning 2 years after the date on which the
 21 itinerary is required to be submitted under para-
 22 graph (2).

23 (2) TIME AND MANNER OF SUBMISSION.—Each
 24 operator of an eligible cruise vessel to be operated in
 25 a domestic itinerary shall submit a proposed

1 itinerary to the Secretary in the form required by
 2 the Secretary in February of each year beginning
 3 after the date of enactment of this Act.

4 (3) REVISIONS AND LATER SUBMISSIONS.—The
 5 Secretary shall permit late submissions and revisions
 6 of submissions after the final list of approved
 7 itineraries is published under paragraph (4)(C) and
 8 before the date that is 90 days before the start date
 9 of a requested itinerary, but a late submission or re-
 10 vision by a higher priority cruise vessel may not dis-
 11 place a priority assigned on the basis of timely sub-
 12 mission by a lower priority cruise vessel. If operators
 13 of comparable vessels submit comparable requests
 14 within 30 days of each other, the priorities of this
 15 section apply at the discretion of the Secretary.

16 (4) SCHEDULING.—

17 (A) ACTION BY SECRETARY.—Within 60
 18 days after receiving an itinerary submitted
 19 under this subsection, the Secretary shall—

20 (i) review the schedule for compliance
 21 with the priorities established by this sec-
 22 tion;

23 (ii) advise affected cruise ship opera-
 24 tors of any specific itinerary that is not

1 available and the reason it is not available;
2 and

3 (iii) publish a proposed list of ap-
4 proved itineraries.

5 (B) OPERATORS RESPONSE.—If the Sec-
6 retary advises an operator under subparagraph
7 (A)(ii) that a requested itinerary is not avail-
8 able, the operator may respond to the Sec-
9 retary's advice within 30 days after it is re-
10 ceived by the operator by appealing the Sec-
11 retary's decision or by submitting a new
12 itinerary proposal.

13 (C) RESOLUTION OF CONFLICTS.—As soon
14 as practicable after the end of the 30-day pe-
15 riod described in subparagraph (B), the Sec-
16 retary shall—

17 (i) resolve any appeals and consider
18 new itinerary proposals;

19 (ii) advise cruise ship operators who
20 responded under subparagraph (B) of the
21 Secretary's decision with respect to the ap-
22 peal or the new itinerary proposal; and

23 (iii) publish a final list of approved
24 itineraries.

1 (f) ITINERARIES BEFORE FINAL LIST IS FIRST PUB-
2 LISHED.—

3 (1) REQUESTS.—For itineraries before the first
4 calendar year for which the Secretary publishes a
5 final list of approved itineraries under subsection
6 (c), the operator of a cruise vessel may submit a re-
7 quest for an itinerary to be sailed before that cal-
8 endar year.

9 (2) CONFLICTING HIGHER PRIORITY USE.—If
10 the itinerary submitted by an operator under para-
11 graph (1) conflicts with an itinerary in use by a ves-
12 sel with a higher priority under this section, the Sec-
13 retary shall disapprove the request and notify the
14 operator of the disapproval and the reason for the
15 disapproval within 5 days (Saturdays, Sundays, and
16 legal public holidays (as defined in section 6103 of
17 title 5, United States Code, excepted) after the re-
18 quest is received.

19 (3) NO INITIAL CONFLICT.—If the itinerary
20 submitted by an operator under paragraph (1) does
21 not conflict with an itinerary in use by a vessel with
22 a higher priority under this section, the Secretary
23 shall publish the request and the requested itinerary
24 immediately. If, within 30 days after the request is
25 published, the operator of a cruise vessel with a

1 higher priority under this section requests the use of
 2 the published itinerary, then the Secretary shall
 3 deny the published request and approve the request
 4 for the higher priority vessel. If no operator of a
 5 cruise vessel with a higher priority under this section
 6 requests the use of the published itinerary within 30
 7 days after it is published, the Secretary shall ap-
 8 prove the requested itinerary and publish notice of
 9 the approval.

10 (4) PUBLICATION OF INTERIM ITINERARIES.—

11 Until the first publication of a final list of approved
 12 itineraries under subsection (e), the Secretary shall
 13 publish, on a quarterly basis, a list of itineraries ap-
 14 proved under this subsection.

15 (g) REPORT.—The Secretary shall issue an annual
 16 report on the number of operating days used by each
 17 cruise vessel assigned a priority under this section.

18 **SEC. 106. CONSTRUCTION STANDARDS.**

19 An eligible cruise vessel for which the Secretary has
 20 issued a permit under section 101(a) is deemed to be in
 21 compliance with the requirements of section 3309 of title
 22 46, United States Code, if it meets the standards and con-
 23 ditions for the issuance of a control verification certificate
 24 for a cruise vessel documented under the laws of a foreign
 25 country embarking passengers in the United States.

1 **TITLE II—POST-PERMIT OPER-**
 2 **ATIONS OF ELIGIBLE CRUISE**
 3 **VESSELS**

4 **SEC. 201. CONTINUED OPERATION IN DOMESTIC**
 5 **ITINERARY REQUIREMENTS.**

6 (a) IN GENERAL.—After the expiration of its period
 7 of operations under a permit issued under section 101(a),
 8 an eligible cruise vessel not documented under the laws
 9 of the United States may not operate in domestic
 10 itineraries unless it meets the following conditions:

11 (1) DOCUMENTATION.—The vessel has been
 12 issued a certificate of documentation with a coast-
 13 wise endorsement.

14 (2) OPERATING CREW; SUPPORT STAFF.—Each
 15 member of the vessel's operating crew licensed or
 16 certified by the United States Coast Guard is a cit-
 17 izen or resident alien of the United States as re-
 18 quired by section 8103 of title 46, United States
 19 Code; and each individual employed aboard the ves-
 20 sel who is not a member of the operating crew is a
 21 citizen or permanent resident of the United States.

22 (b) CONSTRUCTION PLAN.—The operator of an eligi-
 23 ble cruise vessel issued a permit under section 101(a) of
 24 this Act shall demonstrate to the satisfaction of the Sec-

1 retary that, as of the date on which the vessel is docu-
 2 mented under the laws of the United States—

3 (1) it has a plan for the construction of a cruise
 4 vessel in the United States; or

5 (2) it is a party to, or has made substantial
 6 progress toward entering into, an enforceable con-
 7 tract for the construction of such a vessel in the
 8 United States.

9 (c) EXPIRATION OF COASTWISE ENDORSEMENT.—

10 The coastwise endorsement for an eligible cruise vessel op-
 11 erating under subsection (a) shall expire 24 months after
 12 the date on which construction is completed on the last
 13 vessel the operator of the eligible cruise vessel is obligated
 14 to construct in the United States under the contract de-
 15 scribed in subsection (b).

16 (d) REFLAGGING UNDER FOREIGN REGISTRY.—Not-
 17 withstanding section 9(e) of the Shipping Act, 1916 (46
 18 U.S.C. App. 808), the operator of an eligible cruise ship
 19 issued a certificate of documentation with a coastwise en-
 20 dorsement, or a cruise vessel constructed under a contract
 21 described in subsection (a)(4), may place that vessel under
 22 foreign registry. The Secretary shall revoke the coastwise
 23 endorsement for any such vessel placed under foreign reg-
 24 istry under this subsection permanently. Any vessel the
 25 coastwise endorsement for which is revoked under this

1 subsection is not eligible thereafter for coastwise endorse-
 2 ment.

3 **TITLE III—OTHER PROVISIONS**

4 **SEC. 301. AMENDMENT OF TITLE XI OF THE MERCHANT MA-** 5 **RINE ACT, 1936.**

6 (a) **RISK FACTOR.**—Section 1103(h) of the Merchant
 7 Marine Act, 1936 (46 U.S.C. App. 1103(h)) is amended
 8 by adding at the end thereof the following:

9 “(5) For purposes of the risk factor described
 10 in paragraph (3)(I), the Secretary shall consider an
 11 applicant for a guarantee, or a commitment to guar-
 12 antee, under subsection (a) an obligation in connec-
 13 tion with a contract described in section 201(a)(4)
 14 of the United States Cruise Ship Tourism Develop-
 15 ment Act of 1999 to possess the necessary operating
 16 ability, experience, and expertise required if the ap-
 17 plicant demonstrates to satisfaction of the Secretary
 18 that its personnel have the experience and ability to
 19 operate cruise vessels.”

20 (b) **QUALIFICATIONS.**—Section 1104A(b) of the Mer-
 21 chant Marine Act, 1936 (46 U.S.C. App. 1274(b)) is
 22 amended by adding at the end thereof the following:

23 “For purposes of paragraph (1), the Secretary
 24 shall consider an obligor with a contract described in
 25 section 201(b)(2) of the United States Cruise Ship

1 Tourism Development Act of 1999 to possess the
 2 ability necessary to the adequate operation and
 3 maintenance of the cruise vessel that serves as secu-
 4 rity for the guarantee of the Secretary if the obligor
 5 demonstrates to the satisfaction of the Secretary
 6 that its personnel have the experience and ability to
 7 operate cruise vessels.”.

8 **SEC. 302. APPLICATION WITH JONES ACT AND OTHER ACTS.**

9 (a) IN GENERAL.—Nothing in this Act affects or oth-
 10 erwise modifies the authority contained in—

11 (1) Public Law 87-77 (46 U.S.C. App. 289b)
 12 authorizing the transportation of passengers and
 13 merchandise in Canadian vessels between ports in
 14 Alaska and the United States; or

15 (2) Public Law 98-563 (46 U.S.C. App. 289e)
 16 permitting the transportation of passengers between
 17 Puerto Rico and other United States ports.

18 (b) JONES ACT.—Nothing in this Act affects or
 19 modifies the Merchant Marine Act, 1920 (46 U.S.C. App.
 20 861 et seq.).

21 **SEC. 303. GLACIER BAY AND OTHER NATIONAL PARK SERV-**
 22 **ICE AREA PERMITS.**

23 Notwithstanding the last sentence of section 3(g) of
 24 Public Law 91-383 (16 U.S.C. 1a-2(g)), the Secretary of
 25 the Interior, after consultation with the Secretary of

1 ~~Transportation, may issue new or otherwise available per-~~
 2 ~~mits to United States-flag vessels carrying passengers for~~
 3 ~~hire to enter Glacier Bay or any other area within the~~
 4 ~~jurisdiction of the National Park Service. Any such permit~~
 5 ~~shall not affect the rights of any person that, on the date~~
 6 ~~of enactment of this Act, holds a valid permit to enter~~
 7 ~~Glacier Bay or such other area.~~

8 **SECTION 1. SHORT TITLE; TABLE OF SECTIONS.**

9 (a) *SHORT TITLE.*—*This Act may be cited as the*
 10 *“United States Cruise Vessel Act”.*

11 (b) *TABLE OF SECTIONS.*—*The table of sections for this*
 12 *Act is as follows:*

Sec. 1. Short title; table of sections.

Sec. 2. Definitions.

Title I—Operations under Certificate of Documentation

Sec. 101. Domestic cruise vessel.

Sec. 102. Repairs requirement.

Sec. 103. Construction requirement.

Sec. 104. Certain operations prohibited.

Sec. 105. Priorities within domestic markets.

Sec. 106. Report.

Sec. 107. Enforcement

Title II—Other Provisions

Sec. 201. Application with Jones Act and other Acts.

Sec. 202. Glacier Bay and other National Park Service area permits.

13 **SEC. 2. DEFINITIONS.**

14 *In this Act:*

15 (1) *ELIGIBLE CRUISE VESSEL.*—*The term “eligi-*
 16 *ble cruise vessel” means a cruise vessel that—*

17 (A) *was delivered after January 1, 1980;*

18 (B) *is at least 20,000 gross registered tons;*

19 (C) *has no fewer than 800 passenger berths;*

1 (D) is owned by a person that is a citizen
2 of the United States for the purpose of operating
3 a vessel in the coastwise trade within the mean-
4 ing of section 2 of the Shipping Act, 1916 (46
5 U.S.C. 802) or section 12106(e) of title 46,
6 United States Code;

7 (E) provides a full range of overnight ac-
8 commodations, entertainment, dining, and other
9 services for its passengers;

10 (F) has a fixed smoke detection and sprin-
11 kler system installed throughout the accommoda-
12 tion and service spaces, or will have such a sys-
13 tem installed within the time period required by
14 the 1992 Amendments to the Safety of Life at
15 Sea Convention of 1974; and

16 (G) meets the eligibility requirements for a
17 certificate of inspection under section 1137(a) of
18 the Coast Guard Authorization Act of 1996 (46
19 U.S.C. App. 1187 nt.), and complies with the
20 applicable international agreements and associ-
21 ated guidelines referred to in section 1137(a)(2)
22 of that Act (46 U.S.C. 1187 nt.).

23 (2) *ITINERARY*.—The term “itinerary” means
24 the route travelled by a cruise vessel on a single voy-
25 age that begins at the first port at which passengers

1 on that voyage embark, includes each port at which
 2 the vessel calls before the last port at which passengers
 3 on that voyage disembark, and ends at that last port
 4 of disembarkation. For purposes of this paragraph,
 5 the term “embark” and “disembark” have the mean-
 6 ing given those terms in section 4.80a(a)(4) of title
 7 19, Code of Federal Regulations (as such section is in
 8 effect on the date of enactment of this Act).

9 (3) *OPERATOR*.—The term “operator” means the
 10 owner, operator, or charterer.

11 (4) *SECRETARY*.—The term “Secretary” means
 12 the Secretary of Transportation.

13 (5) *UNITED STATES SHIPYARD*.—The term
 14 “United States shipyard” means a shipyard located
 15 in the United States.

16 (6) *UNITED STATES*.—The term “United States”
 17 has the meaning given that term in section 2101(44)
 18 of title 46, United States Code.

19 **TITLE I—OPERATIONS UNDER** 20 **CERTIFICATE OF DOCU-** 21 **MENTATION**

22 **SEC. 101. DOMESTIC CRUISE VESSEL.**

23 (a) *IN GENERAL*.—Notwithstanding the provisions of
 24 section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289),
 25 section 27 of the Act of June 5, 1920, commonly known

1 *as the Jones Act, (46 U.S.C. App. 883), section 27A of that*
 2 *Act, (46 U.S.C. App. 883–1), and section 12106 of title 46,*
 3 *United States Code, the Secretary shall issue a certificate*
 4 *of documentation with a temporary coastwise endorsement*
 5 *for an eligible cruise vessel not built in the United States*
 6 *to operate in domestic itineraries in the transportation of*
 7 *passengers in the coastwise trade between ports in the*
 8 *United States if the vessel meets the requirements of this*
 9 *title.*

10 (b) *TERMINATION OF AUTHORITY.*—*The authority of*
 11 *the Secretary to issue a certificate of documentation under*
 12 *subsection (a) begins on the day after the date of enactment*
 13 *of this Act and terminates on the day that is 24 months*
 14 *after that date.*

15 (c) *APPLICATION ONLY REQUIRED.*—*Notwithstanding*
 16 *subsection (b), the Secretary may issue a certificate of docu-*
 17 *mentation under subsection (a) more than 24 months after*
 18 *the date of enactment of this Act if—*

19 (1) *the Secretary received the application for the*
 20 *certificate of documentation before the end of that 24-*
 21 *month period; and*

22 (2) *the vessel otherwise meets the requirements of*
 23 *this title.*

24 (d) *RIGHTS UNDER APPLICATION NOT*
 25 *TRANSFERRABLE.*—*The right to receive a certification of*

1 *documentation pursuant to an application described in*
 2 *subsection (c) may not be transferred by the applicant to*
 3 *any other person. For purposes of this subsection, the trans-*
 4 *fer of that right to a successor in interest to the applicant*
 5 *in connection with the reorganization, restructuring, acqui-*
 6 *sition, or sale of the applicant's business shall not be consid-*
 7 *ered another person.*

8 **SEC. 102. REPAIRS REQUIREMENT.**

9 (a) *IN GENERAL.*—*The Secretary may not issue a cer-*
 10 *tificate of documentation under section 101(a) for an eligi-*
 11 *ble cruise vessel unless the operator establishes to the satis-*
 12 *faction of the Secretary that—*

13 (1) *any repair, maintenance, alteration, or other*
 14 *preparation of the vessel for operation under a certifi-*
 15 *cate of documentation issued under section 101(a)*
 16 *have been, or will be, performed in a United States*
 17 *shipyard; and*

18 (2) *any repair, maintenance, or alteration of the*
 19 *vessel after a certificate of documentation is issued*
 20 *under that section will be performed in a United*
 21 *States shipyard.*

22 (b) *WAIVER.*—*The Secretary may waive the require-*
 23 *ments of subsection (a) if the Secretary finds that the re-*
 24 *pair, maintenance, alterations, or other preparation serv-*

1 *ices are not available in the United States or if an emer-*
 2 *gency dictates that the vessel proceed to a foreign port.*

3 **SEC. 103. CONSTRUCTION REQUIREMENT.**

4 *(a) CONSTRUCTION CONTRACT REQUIRED.—*

5 *(1) IN GENERAL.—Except as provided in para-*
 6 *graph (2), a vessel for which a certificate of docu-*
 7 *mentation has been issued under section 101(a) may*
 8 *not commence operations in the coastwise trade until*
 9 *the operator of that vessel executes a contract with one*
 10 *or more United States shipyards for the construction*
 11 *of a total of 2 or more cruise vessels with a total com-*
 12 *bined berth or stateroom capacity equal to at least the*
 13 *total combined berth or stateroom capacity of that*
 14 *vessel. If certificates of documentation are issued*
 15 *under section 101(a) for more than 1 vessel for an op-*
 16 *erator, the construction contract required by the pre-*
 17 *ceding sentence shall provide for the construction of 1*
 18 *more vessel than the number of vessels for which cer-*
 19 *tificates of documentation are issued with a total*
 20 *combined berth or stateroom capacity equal to at least*
 21 *the total combined berth or stateroom capacity of the*
 22 *vessels for which the certificates of documentation are*
 23 *issued.*

24 *(2) DEMONSTRATION OF CAPABILITY RE-*
 25 *QUIRED.—For purposes of this subsection, a construc-*

tion contract for which financing is not provided under title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1101 et seq.) shall not be recognized as meeting the requirements of paragraph (1) unless both the operator and the shipyard are capable of completing the contract. For purposes of this paragraph—

(A) an operator shall be considered to be capable of completing such a contract if the operator meets the standards set forth in sections 298.12, 298.13, and 298.14 of title 46, Code of Federal Regulations; and

(B) a shipyard shall be considered to be capable of completing such a contract if the shipyard meets the standards set forth in section 298.32(a) of that title.

(b) *MINIMUM SIZE REQUIREMENT.*—For purposes of this section, a contract for the construction of a vessel shall be disregarded if that vessel—

(1) will be less than 20,000 gross registered tons;

or

(2) will have fewer than 800 passenger berths.

(c) *CONTRACT TERMS.*—

(1) *IN GENERAL.*—The contract required by subsection (a) shall provide for delivery of the first such

1 vessel not later than 60 months after the date on
 2 which operations of the vessel for which the certificate
 3 of documentation was issued commence, and shall
 4 contain any other provisions required by the Sec-
 5 retary for purposes of this subsection. If the contract
 6 provides for the construction of more than 1 vessel, it
 7 shall provide for delivery of each vessel subsequent to
 8 the first not later than 24 months after delivery of the
 9 immediately preceding vessel.

10 (2) *EXTENSION OF TIME PERIODS FOR IMPOS-*
 11 *SIBILITY OF PERFORMANCE.*—If the commencement of
 12 construction or the completion of construction is pre-
 13 vented or delayed by circumstances that would be rec-
 14 ognized as providing a defense of impossibility-of-per-
 15 formance by the shipyard under applicable contract
 16 law, each time period in this Act related to delivery
 17 of a vessel by that shipyard shall be extended for
 18 whatever period of time the circumstance on which
 19 the defense is predicated continues to exist.

20 (d) *EXPIRATION OF COASTWISE ENDORSEMENT.*—The
 21 coastwise endorsement for an eligible cruise vessel under sec-
 22 tion 101(a) shall expire 24 months after the delivery date
 23 for the replacement vessel or vessels for that eligible cruise
 24 vessel. For purposes of this subsection, the term “replac-
 25 ment vessel or vessels” means 1 or more vessels the operator

1 of the eligible cruise vessel is obligated to construct in the
 2 United States under the contract described in subsection (a)
 3 with respect to the eligible cruise vessel that have at least
 4 the same number of passenger berths as the eligible cruise
 5 vessel, or they, replace.

6 (e) *REFLAGGING UNDER FOREIGN REGISTRY.*—Not-
 7 withstanding section 9(c) of the Shipping Act, 1916 (46
 8 U.S.C. App. 808), the operator of an eligible cruise vessel
 9 issued a certificate of documentation with a temporary
 10 coastwise endorsement under section 101(a), or a cruise ves-
 11 sel constructed under a contract described in subsection (a)
 12 of this section, may place that vessel under foreign registry.

13 **SEC. 104. CERTAIN OPERATIONS PROHIBITED.**

14 Neither an eligible cruise vessel operating in domestic
 15 itineraries under a certificate of documentation issued
 16 under section 101(a) nor a vessel constructed under a con-
 17 tract described in section 103(a) may—

18 (1) operate as a ferry;

19 (2) regularly carry for hire both passengers and
 20 vehicles or other cargo; or

21 (3) operate between or among the islands of Ha-
 22 waii.

23 **SEC. 105. PRIORITIES WITHIN DOMESTIC MARKETS.**

24 (a) *NOTIFICATION OF SECRETARY.*—

1 (1) *NEW VESSELS.*—Any person eligible under
 2 section 12102 of title 46, United States Code, to docu-
 3 ment a vessel under chapter 121 of that title that en-
 4 ters into a contract with a United States shipyard for
 5 the construction of a cruise vessel that—

6 (A) will be at least 20,000 gross registered
 7 tons,

8 (B) will have no fewer than 800 passenger
 9 berths, and

10 (C) is otherwise eligible for a certificate of
 11 documentation and a coastwise trade endorse-
 12 ment,

13 shall notify the Secretary, at such time and in such
 14 manner and form as the Secretary may require, of the
 15 construction of that vessel not less than 2 full cal-
 16 endar years before the earliest date on which the vessel
 17 is intended to commence operations.

18 (2) *RECONSTRUCTION.*—The notification require-
 19 ment of paragraph (1) also applies to any such per-
 20 son that enters into a contract with a United States
 21 shipyard for the reconstruction of any vessel, includ-
 22 ing a vessel that has a certificate of documentation
 23 under chapter 121 of title 46, United States Code,
 24 will, after reconstruction, will be that size and capac-
 25 ity and be eligible for such an endorsement.

1 (b) *PRIORITY TO U.S.-BUILT VESSELS.*—The Sec-
 2 retary shall give priority to any cruise vessel described in
 3 subsection (a) over any other cruise vessel of comparable
 4 operations in a comparable market under a certificate of
 5 documentation issued under section 101(a) if the Secretary,
 6 after notice and an opportunity for public comment, deter-
 7 mines that the employment in the coastwise trade of the
 8 vessel issued a certificate of documentation under section
 9 101(a) will adversely affect the coastwise trade business of
 10 any person operating a vessel not documented under section
 11 101(a) in the coastwise trade.

12 (c) *FACTORS CONSIDERED.*—In determining and as-
 13 signing priorities, the Secretary shall consider, among other
 14 factors determined by the Secretary to be appropriate—

15 (A) the scope of a vessel's itinerary,
 16 including—

17 (i) the ports between which it operates;

18 and

19 (ii) the duration of the cruise;

20 (B) the time frame within which the vessel
 21 will serve a particular itinerary;

22 (C) the size of the vessel; and

23 (D) the retail per diem of the vessel.

24 (d) *IMPLEMENTATION.*—

1 (1) *INTINERARY SUBMISSION REQUIRED.*—*The*
 2 *Secretary shall require the operator of each vessel*
 3 *issued a certificate of documentation under section*
 4 *101(a) to submit, in April of each year, a proposed*
 5 *itinerary for that vessel for cruise itineraries for the*
 6 *calendar year beginning 20 months after the date on*
 7 *which the itinerary is required to be submitted.*

8 (2) *PUBLICATION AND COMMENT.*—

9 (A) *PUBLICATION.*—*The Secretary shall*
 10 *cause any itinerary submitted under paragraph*
 11 *(1), and any late submission or revision sub-*
 12 *mitted under paragraph (3), to be published in*
 13 *the Federal Register.*

14 (B) *COMMENT PERIOD.*—*The Secretary*
 15 *shall receive and consider comments from the*
 16 *public on any itinerary published under sub-*
 17 *paragraph (A) for a period of 30 days after the*
 18 *date on which the itinerary is published.*

19 (3) *REVISIONS AND LATER SUBMISSIONS.*—*The*
 20 *Secretary shall permit late submissions and revisions*
 21 *of submissions after the final list of approved*
 22 *itineraries is published under paragraph (4)(C)(iii)*
 23 *and before the start date of a requested itinerary.*

24 (4) *SCHEDULING.*—

1 (A) *ACTION BY SECRETARY.*—Within 30
 2 days after the close of the comment period on an
 3 itinerary published under paragraph (2)(A), the
 4 Secretary shall—

5 (i) review the itineraries submitted to
 6 the Secretary for compliance with the prior-
 7 ities established by this section;

8 (ii) advise affected cruise vessel opera-
 9 tors of any specific itinerary that is not
 10 available and the reason it is not available;
 11 and

12 (iii) publish a proposed list of ap-
 13 proved itineraries.

14 (B) *OPERATORS' APPEALS.*—The operator of
 15 any eligible cruise vessel may appeal the Sec-
 16 retary's decision under subparagraph (A)(ii)
 17 within 30 days after the Secretary advises the
 18 operator of the decision.

19 (C) *RESOLUTION OF CONFLICTS.*—As soon
 20 as practicable after the end of the 30-day period
 21 described in subparagraph (B), the Secretary
 22 shall—

23 (i) resolve any appeals and consider
 24 new itinerary proposals;

- 1 (ii) advise cruise vessel operators who
 2 responded under subparagraph (B) of the
 3 Secretary's decision with respect to the ap-
 4 peal or the new itinerary proposal; and
 5 (iii) publish a final list of approved
 6 itineraries.

7 **SEC. 106. REPORT.**

8 *The Secretary shall issue an annual report on the*
 9 *number of vessels operating under certificate of*
 10 *documentations granted under section 101(a), and on the*
 11 *progress of construction on vessels to replace those vessels*
 12 *under section 103.*

13 **SEC. 107. ENFORCEMENT.**

14 (a) *BREACH OF CONSTRUCTION CONTRACT BY OPER-*
 15 *ATOR.—The Secretary shall revoke a temporary coastwise*
 16 *endorsement issued under section 101(a)(2) for a vessel if*
 17 *the operator of that vessel commits a serious breach of the*
 18 *construction contract required by section 103(a). The rev-*
 19 *ocation shall take effect at the conclusion of the last voyage*
 20 *on the last cruise itinerary approved by the Secretary before*
 21 *the Secretary made the determination to revoke the endorse-*
 22 *ment.*

23 (b) *BREACH OF CONSTRUCTION CONTRACT BY SHIP-*
 24 *YARD.—*

1 (1) *IN GENERAL.*—*If a shipyard commits a seri-*
 2 *ous breach of a construction contract required by sec-*
 3 *tion 103(a) with an operator of a vessel for which a*
 4 *certificate of documentation granted under section*
 5 *101(a)—*

6 *(A) the operator shall notify the Secretary*
 7 *immediately of the breach; and*

8 *(B) the operator may continue to operate*
 9 *that vessel as if the contract were in effect for a*
 10 *period of 24 months after notification of the Sec-*
 11 *retary on the condition that the operator will*
 12 *make good faith efforts during that 24-month pe-*
 13 *riod to execute a contract with a United States*
 14 *shipyard for the construction of the vessels that*
 15 *were to have been constructed under that con-*
 16 *tract.*

17 (2) *GOOD FAITH EFFORT REQUIRED.*—*If the Sec-*
 18 *retary determines at any time during that 24-month*
 19 *period that the operator has ceased to make good faith*
 20 *efforts to execute such a contract, then the Secretary*
 21 *shall immediately terminate the operator’s authority*
 22 *to continue operations under this paragraph.*

23 (c) *SUBSTANTIAL BREACHES ONLY.*—*For purposes of*
 24 *subsections (a) and (b), the term “serious breach of con-*
 25 *tract” means a breach of contract for which an appropriate*

1 *remedy under section 2-703 or 2-711 of the Uniform Com-*
 2 *mercial Code, as promulgated by the National Conference*
 3 *of Commissioners on Uniform State Law, is cancellation*
 4 *by the seller or buyer, respectively.*

5 ***TITLE II—OTHER PROVISIONS***

6 ***SEC. 201. APPLICATION WITH JONES ACT AND OTHER ACTS.***

7 *(a) IN GENERAL.—Nothing in this Act affects or other-*
 8 *wise modifies the authority contained in—*

9 *(1) Public Law 87-77 (46 U.S.C. App. 289b)*
 10 *authorizing the transportation of passengers and mer-*
 11 *chandise in Canadian vessels between ports in Alaska*
 12 *and the United States; or*

13 *(2) Public Law 98-563 (46 U.S.C. App. 289c)*
 14 *permitting the transportation of passengers between*
 15 *Puerto Rico and other United States ports.*

16 *(3) Section 27A of the Act of the Merchant Ma-*
 17 *rine Act, 1920 (46 U.S.C. App. 883-1).*

18 *(4) Section 8109 of the Department of Defense*
 19 *Appropriations Act, 1998.*

20 *(b) JONES ACT.—Except as in section 101(a), nothing*
 21 *in this Act affects or modifies the Merchant Marine Act,*
 22 *1920 (46 U.S.C. App. 861 et seq.).*

1 **SEC. 202. GLACIER BAY AND OTHER NATIONAL PARK SERV-**
2 **ICE AREA PERMITS.**

3 (a) *IN GENERAL.*—*The Secretary of the Interior, after*
4 *consultation with the Secretary of Transportation, shall*
5 *issue new or otherwise available permits to United States-*
6 *flag vessels carrying passengers for hire to enter Glacier*
7 *Bay or any other area within the jurisdiction of the Na-*
8 *tional Park Service. Any such permit shall not affect the*
9 *rights of any person that, on the date of enactment of this*
10 *Act, holds a valid permit to enter Glacier Bay or such other*
11 *area.*

12 (b) *NEW PERMITS NOT AUTHORIZED.*—*Subsection (a)*
13 *does not authorize the Secretary of the Interior to issue new*
14 *permits, but, if new permits are authorized under any other*
15 *provision of law, they shall be awarded in accordance with*
16 *subsection (a).*

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106TH CONGRESS
2D SESSION

S. 1510

[Report No. 106-396]

A BILL

To revise the laws of the United States appertaining to United States cruise vessels, and for other purposes.

SEPTEMBER 6, 2000

Reported with an amendment